BEFORE THE

Federal Communications Commission

WASHINGTON, D. C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of	)	
	)	
AMENDMENT OF PART 1 OF THE COMMISSION'S RULES, PERTAINING TO THE SCHEDULE OF ANNUAL REGULATORY FEES FOR MASS MEDIA SERVICES	)))))	MD Docket No. 96-186

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To: The Commission

COMMENTS OF MONTANA BROADCASTERS ASSOCIATION

The Montana Broadcasters Association ("MBA"), representing the licensees of approximately 130 Montana broadcast stations, submits herewith its comments in response to the Notice of Inquiry, FCC 96-422, released November 6, 1996 (61 Fed. Reg. 59,397 (November 22, 1996)) ("NOI").

Through the NOI, the Commission is exploring utilization of a methodology to reflect market size in the assessment of annual regulatory fees for AM and FM broadcast stations. It specifically seeks comments regarding a proposal MBA advanced in its Comments, filed April 29, 1996, with respect to the regulatory fees for FY 1996 (MD Docket No. 96-84).

Radio Regulatory Fees Should Take Cognizance of Market Size

The regulatory fee program, instituted at the direction of Congress, commenced in FY 1994. In FY 1994, 1995 and 1996, the regulatory fee schedules for commercial radio stations distinguished between various technical facility classes of stations. Different fees were assessed for each of the four classes of AM stations (A, B, C and D). Higher powered FM stations (Classes C, C1, C2 and B) were grouped in one fee class and lower powered FM stations (Classes C3, B1 and A) were grouped in another. As of FY 1994, the ratios between the station class paying the lowest fee, Class C AM stations, and the other technical facility groupings were as follows:

FIGURE 1

Radio Regulatory Fee Ratios Between Class C AM Stations and Stations in Other Technical Facility Classifications

Class D AM	1.25
Class B AM	2.50
Class A AM	4.50
FM Group I (Classes C, C1, C2 and B)	4.50
FM Group II (Classes A, B1 and C3)	3.00

Because of various adjustments in the regulatory fee schedule and rounding, the ratios between radio technical facility groupings for FY 1996 were slightly different but close to those used in the original FY 1994 regulatory fee schedule.

Significantly, no distinction has been drawn on the basis of the size of the market in which a station was located. The failure to take cognizance of market size has placed an unfair burden on small market radio stations. As MBA has pointed out in the past, a Class B FM station in New York City with a 1994 population of 7,733,253, has paid the same regulatory fees as a Class C FM station in Red Lodge, Montana with a 1994 population of 2,280.

Of course, larger market stations garner the lion's share of radio industry revenues. Data compiled by BIA Publications, a leading broadcast financial research firm, confirmed radio stations in the top 20 markets earn 40.7% of the nation's total radio revenue. Stations in Markets 21-50 garner 16.6%. Stations in markets 51-100 receive another 11.1%. Thus, radio stations in the top 100 markets receive 68.4% of all radio revenue. See BIA Publications, Inc., State of the Industry -- Radio 1996, p. 34. Yet, according to data derived from the Dataworld MediaXpert data base, those markets contain only roughly 15% of the stations obligated to pay regulatory fees in FY 1996. Given these facts, it is inequitable to continue assessing radio regulatory fees strictly on the basis of technical facility groupings.

In adopting the initial regulatory fee structure, Congress recognized the importance of market size with respect to the assessment of fees on television stations. Television stations, for regulatory fee purposes, have been classified according to the type of station (VHF or UHF) and according to one of five market size classifications: Markets 1-10, 11-25, 26-51, 51-100 and the "Remaining Markets."

On April 26, 1996, the President signed "The Balanced Budget Downpayment Act," P.L. No. 104-134, which established a new television regulatory fee schedule for FY 1996. The new fee schedule significantly raised fees for stations in the top 50 markets and significantly lowered fees in the Remaining Markets. Fees for the VHF stations in Markets 51-100 increased $25. Fees for UHF stations in Markets 51-100 were lowered by $2,975.

The ratios between the regulatory fees for Remaining Market television stations and those for larger market television stations are as follows:

FIGURE 2

Television Regulatory Fee Ratios Between "Remaining Market" Stations and Larger Market Stations

MARKET	VHF	UHF	AVERAGE[1]
1-10	12.80	12.50	12.65
11-25	10.40	10.00	10.20
26-50	6.80	6.50	6.65
51-100	3.60	3.50	3.55

MBA urges the Commission to adopt a radio regulatory fee structure that reflects both the differences in (a) technical facilities, using the same ratios Congress used for FY 1994, and (b) market size, using approximately the same ratios Congress used for television stations in FY 1996.[2] Below is a chart reflecting the proposed ratios between the regulatory fee for the type of station that should have the lowest regulatory fee, a Remaining Market Class C AM station, and the regulatory fee for stations falling into other market and technical facility groupings.[3]

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[1] The average ratio for Markets 1-25 is 11.43.

[2] Although the Commission's NOI included in ¶6 a proposed fee schedule that was intended to reflect both market size and technical facility ratios, the Commission's fee schedule altered the ratios between the lowest AM technical facility grouping (Class C AM) and the FM groupings. The result was to skew the regulatory fee burden toward AM stations and away from FM stations. The fee structure MBA proposes here would maintain the same technical facility grouping ratios as used by Congress for FY 1994.

[3] MBA proposes that four market size classifications be used: Markets 1-25, 26-50, 51-100 and Remaining Markets. The market size fee ratio between the "Remaining Markets" and the top 25 markets would be an average of the ratios used in Markets 1-10 and 11-25 for VHF and UHF television stations. As indicated in Footnote 1, that ratio is 11.43.

FIGURE 3

Ratios between the Regulatory Fee for a "Remaining Market" Class C AM Station and for Radio Stations in Other Fee Groupings

MARKETS	AM CLASS A	AM CLASS B	AM CLASS C	AM CLASS D	FM GROUP I	FM GROUP II
1-25	51.44	28.58	11.43	14.29	51.44	34.29
26-50	29.93	16.63	6.65	8.31	29.93	19.95
51-100	15.98	8.88	3.55	4.44	15.98	10.65
Remaining	4.50	2.50	1.00	1.25	4.50	3.00

Assuming a base fee of $120 (i.e., the fee for a Remaining Market Class C AM station), the following tentative fee schedule is proposed:

FIGURE 4

Tentative Fee Schedule Using a Base Fee (Remaining Market Class C AM) of $120 and the Ratios in Figure 3

MARKET	AM CLASS A	AM CLASS B	AM CLASS C	AM CLASS D	FM GROUP I	FM GROUP II
1-25	6,125	3,425	1,375	1,725	6,125	4,125
26-50	3,600	2,000	800	1,000	3,600	2,400
51-100	1,925	1,075	425	535	1,925	1,275
Remaining	540	300	120	150	540	360

In order to calculate the estimated aggregate fees that would be collected if the above schedule were used, estimates must be made as to the number of broadcast stations in each fee grouping. In connection with the preparation of MBA's Comments in MD Docket No. 96-84, MBA obtained information from the Dataworld Inc.'s MediaXpert data base as to the stations in each fee grouping.[4] By using these station counts and the fee schedules set forth in Figure 4 above, MBA has estimated total revenue would be $6,842,555. See Attachment 1 hereto. That amount is slightly higher than the $6,719,050 the Commission projected it would collect under the fee structure adopted for FY 1996. See Report and Order in MD Docket No. 96-84, Appendix C.

While MBA's proposed rate structure does not reflect the precise market circumstances faced by each station, it more fairly distributes the regulatory fee burden. It would eliminate the anomaly whereby a station in one of the nation's largest markets winds up paying the same fee as a station in a sparsely populated rural area simply because both are in the same technical facility grouping.

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[4] The Dataworld station count is subject to further refinement and verification. For reasons presently unknown, the Dataworld count failed to reflect any Class C or D AM stations in the top 100 markets. MBA believes the task of obtaining an accurate station count and, indeed, delineating the fee grouping into which each station falls, will not be particularly onerous given the availability of Commission and private data bases. MBA believes that at a reasonable cost the Commission can have a printout prepared identifying the fee grouping in which each licensed station falls.

In conclusion, MBA urges the Commission to adopt a fee structure based on the ratios set forth in Figure 3 above.

MONTANA BROADCASTERS ASSOCIATION

By____________________________
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ATTACHMENT 1

Estimated Regulatory Fee Revenue Using
Tentative Fee Schedule in Figure 4

FEE CATEGORY	ESTIMATED PAYMENT UNITS	PROPOSED FEE[1]	ESTIMATED REVENUE
AM Class A Markets 1-25[2]	17	$6,125	$104,125
AM Class A Markets 26-50[2]	7	$3,600	$25,200
AM Class A Markets 51-100[2]	2	$1,925	$3,850
AM Class A Remaining Markets[3]	84	$540	$45,360
AM Class B Markets 1-25[2]	18	$3,425	$61,650
AM Class B Markets 26-50[3]	8	$2,000	$16,000
AM Class B Markets 51-100[2]	7	$1,075	$7,525
AM Class B Remaining Markets[3]	1,350	$300	$405,000
AM Class C Markets 1-25[2]	0	$1,375	
AM Class C Markets 26-50[2]	0	$800	

[1] Pursuant to 47 U.S.C. §159(b)(2), fees under $1,000 are rounded to the nearest $5.00 and fees of $1,000 or more are rounded to the nearest $25.00.

[2] Derived from Dataworld, Inc.'s MediaXpert™ Database.

[3] Derived by subtracting aggregate number of larger market stations in this technical facilities grouping (as drawn from Dataworld's MediaXpert data) from the FY 1996 Payment Units listed in Appendix C of the Report and Order in MD Docket No. 96-84.

FEE CATEGORY	ESTIMATED PAYMENT UNITS	PROPOSED FEE	ESTIMATED REVENUE
AM Class C Markets 51-100[2]	0	$425	
AM Class C Remaining Markets[3]	1,080	$120	$129,600
AM Class D Markets 1-25[2]	0	$1,725	
AM Class D Markets 26-50[2]	0	$1,000	
AM Class D Markets 51-100[2]	0	$535	
AM Class D Remaining Markets[3]	1,450	$150	$217,500
AM Construction Permits[4]	35	$140	$4,900
FM Classes C, C1, C2, B Markets 1-25[2]	372	$6,125	$2,278,500
FM Classes C, C1, C2, B Markets 26-50[2]	236	$3,600	$849,600
FM Classes C, C1, C2, B Markets 51-100[2]	322	$1,925	$619,850
FM Classes C, C1, C2, B Remaining Markets[3]	1,290	$540	$696,600
FM Classes A, B1, C3 Markets 1-25[2]	72	$4,125	$297,000
FM Classes A, B1, C3 Markets 26-50[2]	72	$2,400	$172,800
FM Classes A, B1, C3 Markets 51-100[2]	189	$1,275	$240,975

[4] From Appendix C of the Report and Order in MD Docket No. 96-84.

FEE CATEGORY	ESTIMATED PAYMENT UNITS	PROPOSED FEE	ESTIMATED REVENUE
FM Classes A, B1, C3 Remaining Markets[3]	1,867	$360	$672,120
FM Construction Permits[4]	350	$690	$218,700

Total Estimated Revenue: $6,842,555

Total Estimated Revenue for AM/FM Stations per Appendix C of the Report and Order in MD Docket No. 96-84: $6,719,050